



STATE OF NEW YORK

UNEMPLOYMENT INSURANCE APPEAL BOARD

PO Box 15126

Albany NY 12212-5126

DECISION OF THE BOARD

Mailed and Filed: JULY 20, 2023

IN THE MATTER OF:

Appeal Board No. 628831

PRESENT: MARILYN P. O'MARA, MEMBER

In Appeal Board Nos. 628830 and 628831, the claimant applied to the Appeal Board, pursuant to Labor Law § 620 (3), for a reopening and reconsideration of

the Judge's decisions filed March 16, 2023 insofar as they sustained the initial determinations holding the claimant ineligible to receive benefits, effective March 22, 2021 through March 28, 2021, on the basis that the claimant failed to certify for the benefit period within the seven-day period for such certification; and holding the claimant ineligible to receive benefits, effective

March 28, 2021 through July 4, 2021, on the basis that the claimant did not comply with registration requirements. Due deliberation having been had, the Board has reopened and reconsidered the decisions of the Administrative Law Judge.

At the combined telephone conference hearing before the Administrative Law Judge, all parties were accorded a full opportunity to be heard and testimony was taken. There was an appearance by the claimant.

Based on the record and testimony in this case, the Board makes the following

FINDINGS OF FACT: On April 6, 2020, the claimant filed a claim for unemployment benefits. She received and read the claimant handbook about claiming benefits for a statutory week and she knew she had to certify each week to receive benefits. The claimant certified from late 2020 through week ending March 21, 2021.

On March 14, 2021, the claimant went to Urgent Care and tested positive for COVID-19. An elder in the medical industry advised her that unemployment benefits are not issued when an individual is positive for COVID-19. The claimant did not certify from March 22, 2021 through July 4, 2021. She went to Urgent Care and tested positive for COVID-19 on March 30, 2021, April 9, 2021, April 19, 2021, May 16, 2021, June 2, 2021, June 24, 2021, July 3, 2021, July 15, 2021 and July 29, 2021. The claimant completely forgot about her claim and weekly certifying because she was focused on her health. Her cell phone was off because the bill had not been paid. The claimant did not ask her sister to help her with her certifications.

During week ending July 11, 2021, the claimant contacted the NYS Department of Labor and was told she could have continued certifying weekly and she could resume doing so. The claimant resumed certifying beginning with the week ending July 11, 2021.

OPINION: The credible evidence establishes the claimant did not certify or register for unemployment insurance benefits from March 22, 2021 through July 4, 2021 because she completely forgot about her claim and weekly certifying as she was focused on her health, because an elder told her that benefits are not issued when an individual is positive for COVID-19, and because her cell phone was off because she had not paid the bill. We are not persuaded by her contention that she was unable to claim benefits because of her health, as the claimant was able to go to Urgent Care for testing numerous times during this period. Further, any misinformation from an elder does not excuse her failure to certify. Finally, her failure to pay her cell phone bill does not excuse her failure to certify. The claimant has not established a compelling reason constituting good cause for her failure to certify and/or register from March 22, 2021 through July 4, 2021. Accordingly, we conclude that her failure to certify and register is not excused.

DECISION: The decisions of the Administrative Law Judge, insofar as appealed from, are affirmed.

In Appeal Board Nos. 628830 and 628831, the initial determinations, holding the claimant ineligible to receive benefits, effective March 22, 2021 through March 28, 2021, on the basis that the claimant failed to certify for the benefit period within the seven-day period for such certification; and holding the claimant ineligible to receive benefits, effective March 28, 2021 through

July 4, 2021, on the basis that the claimant did not comply with registration requirements, are sustained.

The claimant is denied benefits with respect to the issues decided herein.

MARILYN P. O'MARA, MEMBER